

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 849**

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**Introduced by Assembly Member Bonilla**

February 26, 2015

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An act to add Section 452.5 to the Penal Code, relating to crimes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 849, as amended, Bonilla. Crimes: causing an explosion.

Existing law proscribes the crime of arson and provides that a person is guilty of arson when he or she willfully and maliciously sets fire to or burns or causes to be burned, or aids, counsels, or procures the burning of, a structure, forest land, or property. The crime of arson is a felony punishable by imprisonment in the state prison, as specified.

This bill would provide that a person who recklessly causes an explosion is guilty of a public offense. The bill would provide that if the explosion causes great bodily injury, the offense is a felony ~~punishable, as specified,~~ *punishable by incarceration* for 2, 4, or 6 years, *as specified*, or a misdemeanor punishable by imprisonment in a county jail for up to one year. The bill would provide that if the explosion causes damages in the amount of \$20,000 or more to any structure in which a person was present at the time of the offense or to an inhabited dwelling, the offense is a felony punishable, as specified, or a misdemeanor punishable by imprisonment in a county jail for up to one year. The bill would also provide that if the explosion causes damages in the amount of \$2,000 or more, but less than \$20,000, to any structure

in which a person was present at the time of the offense or to an inhabited dwelling, the offense is a misdemeanor punishable by imprisonment in a county jail for up to one year. By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 452.5 is added to the Penal Code, to read:  
2     452.5. (a) A person who recklessly causes an explosion is  
3     guilty of a public offense.  
4     (b) If the explosion described in subdivision (a) causes great  
5     bodily injury to another person, the offense is a felony punishable  
6     pursuant to subdivision (h) of Section 1170 for two, four, or six  
7     years, or a misdemeanor punishable by imprisonment in a county  
8     jail for up to one year.  
9     (c) If the explosion described in subdivision (a) causes damages  
10    in the amount of twenty thousand dollars (\$20,000) or more to any  
11    structure in which a person was present at the time of the offense  
12    or to an inhabited dwelling, the offense is a felony punishable  
13    pursuant to subdivision (h) of Section 1170, or a misdemeanor  
14    punishable by imprisonment in a county jail for up to one year.  
15    (d) If the explosion described in subdivision (a) causes damages  
16    in the amount of two thousand dollars (\$2,000) or more, but less  
17    than twenty thousand dollars (\$20,000), to any structure in which  
18    a person was present at the time of the offense or to an inhabited  
19    dwelling, the offense is a misdemeanor punishable by  
20    imprisonment in a county jail for up to one year.  
21    (e) The court may not impose sentence pursuant to subdivision  
22    (b) and an enhancement for infliction of great bodily injury if the  
23    same injury is an element of the crime and the basis for the  
24    enhancement.

1 (f) For purposes of this section, the amount of damages caused  
2 by the defendant's conduct is determined by the market cost of  
3 repair or replacement in the place where the offense occurred.

4 (g) ~~For purposes of this section, "inhabited"~~ *As used in this*  
5 *section:*

6 (1) *"Explosion" means the sudden conversion of potential*  
7 *energy, either chemical or mechanical, into kinetic energy with*  
8 *the production and release of gases under pressure, or the release*  
9 *of gas under pressure, which results in these high pressure gases*  
10 *doing mechanical work such as moving, changing, or shattering*  
11 *nearby materials.*

12 (2) *"Inhabited"* means currently being used for dwelling  
13 purposes, whether occupied or not occupied.

14 (h) A misdemeanor charged under this section is subject to a  
15 civil compromise pursuant to Chapter 7 (commencing with Section  
16 1377) of Title 10 of Part 2.

17 (i) This section does not prohibit prosecution under any other  
18 ~~law~~ *law, provided, however, that a person shall not be punished*  
19 *for a violation of both this section and Section 452 if the offenses*  
20 *arise from the same conduct.*

21 SEC. 2. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.